



Atty. Docket No. 22920.0003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Giordano et al.

Serial Number: 09/671,283

Group Art Unit: 1617

Filed: 27 September 2000

Examiner: Bahar, M.

For: METHOD AND COMPOSITION FOR SUPPLEMENTATION OF
NUTRITIONAL DEFICIENCIES IN RENAL PATIENTS

**REPLY TO RESTRICTION REQUIREMENT AND
REQUIREMENT TO ELECT SPECIE**

Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Restriction Requirement mailed 22 January 2002, Paper No. 3, Applicants elect, with traverse, the claims of Group I (Claims 1-52) for prosecution in the subject application. Similarly, in response to the Election of Specie Requirement Applicants elect, with traverse, end-stage renal disease for prosecution in the present application.

It is only proper to require restriction between patentable distinct inventions if there would be a serious burden on the Examiner if restriction is not required. *See MPEP § 803(A) and (B)* (referring to MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02))

It is respectfully submitted that no serious burden would be placed on the Examiner to Examine claims 1-52 of the proposed group I and claims 53-166 of the proposed group II together. The Examiner asserts that claims 1-52 of the proposed group I are drawn to a composition comprising Vitamin C, Vitamin E, chromium, selenium, zinc, and B complex. Claims 53-166 of the proposed group II, as the Examiner also asserts, relate to methods of administering such a composition. Searching those two inventions together we believe will pose no additional burden on the examiner. Accordingly, it is not proper to restrict the application in this manner and, thus, the Examiner must examine the claims of groups I and II together on the merits. *See 37 C.F.R. 1.142 and MPEP § 803(A) and (B).*

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Moreover, it is respectfully submitted that no serious burden would be placed on the Examiner to examine claims of different diseases. For example, kidney disease and end-stage renal disease are related. Hence, searching those two inventions together we believe will pose no additional burden on the Examiner. Accordingly, it is not proper to restrict the application in this manner and, thus, the Examiner must examine more than one disease together on the merits. *See* 37 C.F.R. 1.146 and MPEP § 803(A) and (B).

In light of the foregoing, applicants respectfully request reconsideration and withdrawal of the present restriction requirement, based upon improper restriction of groups I and II. 37 C.F.R. § 1.475 and § 1.143. Similarly, Applicants respectfully request reconsideration and withdrawal of the present election of specie requirement.

Applicants, of course, reserve the right to file divisional applications covering the subject matter of the non-elected claims.

Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,



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Dated: 21 February 2002

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